



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOP - 175067

PRELIMINARY RECITALS

Pursuant to a petition filed on June 16, 2016, under Wis. Admin. Code §HA 3.03, to review a decision by the Brown County Human Services regarding FoodShare benefits (FS), a hearing was held on July 12, 2016, by telephone.

The issue for determination is whether this appeal is timely.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. On 10/16/15, the agency issued an overpayment notice for the period from 1/1/15 to 2/28/15 in the amount of \$225.01.

3. On 3/3/16, the agency issued an overpayment notice for the amount of \$247.00. The period of that overpayment is 2/1/16 and 3/31/16.
4. Petitioner filed her request for hearing on June 20, 2016.

DISCUSSION

Petitioner's presentation at hearing was illogical and disjointed. Little of petitioner's presentation was helpful. She had no cogent explanations for her failure to receive the mail that was sent to her correct address. She made reference to jail stays and issues with the court and her daughter and made reference to irrelevant time periods. She also made reference to Brown County Circuit Court matters that resulted in dismissal. Little to none of what petitioner stated made sense to me. She may have been referencing a prior IPV determination by the agency resulting in a termination sanction that was sustained by this ALJ in case number 171364.

An administrative law judge can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action concerning FS, including an overpayment determination, must be filed within 90 days of the date of that action. 7 C.F.R. § 273.15(g). The petitioner's appeal was filed beyond this time limit for both of the overpayment claims pending against petitioner. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case. There is no relevant exception under law, and I possess no authority to reach the underlying merits of the FS overpayment determinations.

CONCLUSIONS OF LAW

The appeal is untimely

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 5th day of August, 2016

\s _____
John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 5, 2016.

Brown County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability